

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FILED/ACCEPTED

JUL 26 2011

Federal Communications Commission
Office of the Secretary

In re)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio)	
Services)	
)	
Applicant for Modification of Various	)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028, 0004193328,
	)	0004354053, 0004309872, 0004310060,
Applicant with ENCANA OIL AND GAS (USA),	)	0004314903, 0004315013, 0004430505,
INC.; DUQUESNE LIGHT COMPANY; DCP	)	0004417199, 0004419431, 0004422320,
MIDSTREAM, LP; JACKSON COUNTY	)	0004422329, 0004507921, 0004153701,
RURAL MEMBERSHIP ELECTRIC	)	0004526264, 0004636537,
COOPERATIVE; PUGET SOUND ENERGY,	)	and 0004604962
INC.; ENBRIDGE ENERGY COMPANY,)	
INC.; INTERSTATE POWER AND LIGHT)	
COMPANY; WISCONSIN POWER AND)	
LIGHT COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.;)	
ATLAS PIPELINE – MID CONTINENT, LLC;)	
DENTON COUNTY ELECTRIC)	
COOPERATIVE, INC. , DBA COSERV)	
ELECTRIC; AND SOUTHERN CALIFORNIA)	
REGIONAL RAIL AUTHORITY)	
 To: Marlene H. Dortch, Secretary Attention: Chief Administrative Law Judge Richard L. Sippel		

ENFORCEMENT BUREAU'S RESPONSE TO
MARITIME'S SUPPLEMENT REGARDING MR. HAVENS' PARTICIPATION

1. By Order, FCC 11M-15 (ALJ, rel. June 16, 2011), the Presiding Judge established a procedural schedule for, among other things, the filing of pleadings related to the future participation in this hearing of Warren Havens and several entities he controls.¹ Pursuant to this

¹ These consist of Environmental LLC, Intelligent Transportation and Monitoring Wireless LLC, Skybridge Spectrum Foundation, Telesaurus Holdings GB LLC, Verde Systems LLC and V2G LLC (collectively, "Mr.

schedule, briefing on such pleadings concluded with the Enforcement Bureau's Consolidated Comments on the Participation of Mr. Havens, filed on July 21, 2011. On July 25, 2011, Maritime filed a motion for leave to file a supplement – together with a supplement – to its June 29, 2011 Motion regarding Mr. Havens' participation,² arguing that the Presiding Judge should take judicial notice of the Commission's *Third Order on Reconsideration* (FCC 11-116), released on July 22, 2011, and the restrictions upon Mr. Havens proposed therein. The Chief, Enforcement Bureau ("Bureau"), by her attorneys, hereby responds to Maritime's Supplement.

2. The Bureau agrees that the Presiding Judge should take judicial notice of the Commission's *Third Order on Reconsideration* (FCC 11-116), concluding that, in the context of a different proceeding, Mr. Havens acted contrary to the Commission's processes. However, by its very terms, the Commission did not extend the sanctions it proposes in this Order to the Maritime hearing proceeding or indeed, to any other Commission proceeding.³ Instead, the Commission merely noted that it may take action in other proceedings "**when there are additional abusive or frivolous pleadings.**"⁴ Mr. Havens has been accused of no such conduct or disruption here. Moreover, because Mr. Havens is represented by competent communications counsel in the Maritime proceeding, no such abusive conduct is anticipated. For these reasons, the Commission's Order does not offer support for the excessive limits Maritime has proposed on Mr. Havens' participation in the Maritime hearing.

Havens").

² See Maritime's Motion for Leave to Supplement Motion Proposing Procedures for Participation of the Petitioner Parties and Maritime's Supplement to the Motion Proposing Procedures for Participation of the Petitioner Parties, filed July 25, 2011 ("Supplement"). See also Motion Proposing Procedures for Participation of the Petitioner Parties, filed on June 29, 2011, by Maritime.

³ See, e.g., *Third Order on Reconsideration* (FCC 11-116), at ¶ 14.

⁴ *Id.* (emphasis added).

Respectfully submitted,

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July 26, 2011

CERTIFICATE OF SERVICE

Makia Day, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 26th day of July, 2011, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S RESPONSE TO MARITIME'S SUPPLEMENT REGARDING MR. HAVENS' PARTICIPATION" to:

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